

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Cornelia Calderone, Chair, Joseph Sieber,
Vice Chairman, and Frank Serico, Member

From: Gerald Yarbrough, Executive Secretary
Board of Review

Subject: Minutes of the July 26, 2006
Board of Review Meeting

Date: August 1, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, July 26, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, August 2, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair
Mr. Sieber, Vice Chair
Mr. Serico, Member
Mr. Yarbrough, Executive Secretary

2. Following a motion by Ms. Calderone and seconded by Mr. Sieber, the minutes of the July 19, 2006 meeting were approved.

3. Old Business

(a) 91,740

Mr. Sieber reviewed this case that involved a claimant who was employed with a law firm for five years when he was laid off. The employer advised the claimant that he may be rehired in the fall. The claimant sought work over the internet and was eventually rehired by his former employer. The Appeal Tribunal had held the claimant ineligible for benefits under N.J.S.A. 43:21-4(c) as he was not actively seeking work. After discussion, the Board noted that the

claimant's work search was sufficient and voted to reverse the Appeal Tribunal. Mr. Sieber will prepare the decision.

4. New Business

(a) 103,406

Mr. Gitter presented this case that involved a claimant who worked as an applicator of fertilizer. The claimant was asked to perform more strenuous work when the season for his job ended. The claimant told the employer he was working against medical advice due to a prior neck injury as the result of an automobile accident. The employer requested the claimant to obtain medical documentation that he could perform the work. The claimant did not do so and was not allowed to work. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A.43:21-5(b). The Board noted that there was no testimony regarding whether the claimant performed the strenuous duties in the past, and the only medical documentation presented was not concerned with the neck injury. As a result, the Board voted to remand the case for additional testimony regarding the claimant's job duties and for the claimant to present medical documentation of his condition. Mr. Gitter will prepare the remand.

(b) 111,069

Ms. Futterman described this case that involved a claimant who was employed as a paste up person until March 04, 2005, when the company was sold. The claimant's husband was the prior owner of the company. The new owner contends the claimant did not perform any services for the company based on information from the prior owner as well as other employees of the company. The owner offered to present numerous employee witnesses to support his contention. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A. 43:21-5(a) and not liable to refund benefits. The Board noted that the record was lacking specific details of the claimant's job duties as well as how her wages were reported. As a result, the Board voted to remand the case for additional testimony as well as to give the employer the opportunity to present witnesses. Ms. Futterman will prepare the remand.

(c) 113,020 & 110,336

As presented by Mr. Maddow, this case involved a claimant who was employed from February 6, 2006 through February 28, 2006. The claimant became upset when the employer asked him for the last four digits of his social security number. The employer needed the information to set up a new payroll system. The claimant left work for that reason. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The matter was initially decided as a part of docket number 110,336. However, that portion of the decision was vacated by the Appeal Tribunal as the employer was not

notified of the hearing. The Board noted that the claimant's separation was without good cause. However, as he only worked for the employer for a short period of time, he is disqualified for benefits under N.J.S.A. 43:21-5(c), not N.J.S.A. 43:21-5(a). As a result, the Board voted to modify the Appeal Tribunal under docket number 113, 020. Mr. Maddow will prepare the decision.

(d) 106, 367

As described by Mr. Maddow, this case involved a claimant who was employed as a payroll clerk and was required to prepare and issue manual checks for employees whose payroll check was lost or incorrect. The claimant was required to obtain two authorized signatures on the manual checks. When the claimant could not obtain the proper signatures, she would leave checks with a receptionist to obtain the signatures. The employer found that signatures on a number of checks were forged and discharged the claimant. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A. 43:21-5(b). After discussion the Board noted that the claimant's behavior was against the employer's policy and voted to reverse the Appeal Tribunal. Mr. Maddow will prepare the decision.

(e) 111, 092

This matter was tabled.

5. Public Portion

The Board expressed concern to Mr. Hugh O'Hare, Chief Appeal Examiner about the amount of remands as a result of the Appeal Tribunal's failure to write decisions that reflect the record and address the contentions of parties to the hearing.

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

Gerald Yarbrough
Executive Secretary

GY:gs